## REMARKS

A total of 36 claims remain in the present application. The following comments are presented in response to the Office Action mailed March 8, 2007, wherefore reconsideration of this application is requested. Referring to the text of the Office Action:

- Figure 2 has been objected to as allegedly failing to identify the subject matter thereof as prior art;

- claims 1, 3-5, 8-14, 17, 19-24, 26-28, 30-34 and 37 stand rejected under U.S.C. § 103(a), as being unpatentable over the teaching of United States Patent Application Publication No. 2002/0149823 (Bergano et al.) in view of admitted prior art (APA) represented by figure 2 and paragraphs 0036 and 0038 of the specification;

- claims 6, 7, 15, 16, 18, 29, 35, 36 and 38 are objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As an initial matter, applicant appreciates the Examiner's indication of allowable subject matter in claims 6, 7, 15, 16, 18, 29, 35, 36 and 38. The Examiner's objections to Figure 2, and claim rejections under 35 U.S.C. §103(a) are believed to be traversed in view of the following discussion.

Objections to the Figures

At paragraph 1 of the detailed action, the Examiner repeats his previous objection that Figure 2 should be designated as prior art "because only that which is old is illustrated". At Section 5 of the Detailed Action, the Examiner states that:

> "... the applicant argues that the fig. 2 combination of a beam splitter, a pair of photodiodes and multiplier element 30 is not known. This argument is not persuasive because the applicant, in addressing the rejections under 35 U.S.C. § 103(a);

subsequently states that "PDL detector 10, which includes multiplier element 30, is prior art"

With respect, the Examiner's argument is not understood. Further clarification is courteously requested. In particular, Applicant does not understand the Examiner's assertion that Applicant has argued to the effect that "the fig. 2 combination of a beam splitter, a pair of photodiodes and multiplier element 30 is not known". Applicant has made no such argument. In fact, what applicant did argue, is as follows:

> "FIG. 2 ... shows a multiplier 30 which generates a "signal indicative of a proportionality ratio between the two detected power levels" [Para 0036], and a "processor 20 which operates to compare the measured polarization state with a previously known initial polarization state." [Para. 0035]. Applicant believes that this combination of elements is not known in the prior art ..."

Applicant cannot understand how it is possible to read this passage, and conclude that the Applicant is claiming novelty in "a beam splitter, a pair of photodiodes and multiplier element 30" as asserted by the Examiner.

Furthermore, in referring to Applicant's arguments with reference to the rejections under 35 U.S.C. § 103(a), it appears that the Examiner is referring to the following sentence:

> "For greater certainty, it will be well recognised that individual elements of the present invention, such as the PDL detector 18 us[ed] in the embodiment of FIG. 2, are known in the prior art."

Applicant cannot understand how it is possible to read this sentence, and conclude that Applicant has disclaimed novelty in the entirety of the subject matter of FIG. 2. It would seem that such a conclusion would require that the reader ignore exactly all of the other sentences that precede and follow this sentence, and further to somehow conclude that that FIG. 2 shows only the PDL detector 18, and exactly nothing else. It will be plainly obvious to even the casual observer that neither of these is valid. Indeed, casual inspection of FIG. 2 makes plain the fact that FIG. 2 illustrates more than just a beam splitter and a pair of photodiodes. In

particular, FIG. 2 also shows a multiplier 30 which generates a "signal indicative of a proportionality ratio between the two detected power levels" [Para 0036], and a "processor 20 which operates to compare the measured polarization state with a previously known initial polarization state." [Para. 0035]. Applicant believes that this combination of elements is not known in the prior art, and the Examiner has offered no argument or evidence that might suggest otherwise.

Accordingly, reconsideration and withdrawal of the Examiner's objection to FIG. 2 is believed to be in order, and such action is courteously requested.

Rejections under 35 U.S.C. §103(a)

As noted in applicant's response filed July 6, 2007, Bergano et al fail to teach all of the elements of independent claims 1, 19 and 24. None of the other known prior art provides the missing teaching. Indeed, the Examiner's rejection relies entirely on his contention that FIG. 2 of the specification illustrates "only that which is old" and constitutes "admitted prior art". However, as noted above, Applicant has made no such admission, and it is not understood how it is possible for the Examiner, having apparently read Applicant's arguments filed December 1, 2006, to conclude otherwise.

Independent claims 1, 19 and 24 are explicitly drawn to the combination of elements that achieve the advantages of the present invention. Receivers embodying this combination of elements are illustrated in FIGs 2 and 3, and described in the accompanying description. It is axiomatic that the teaching of the present invention cannot properly be used as a basis for rejecting the claims of the present application, as the Examiner is now doing.

Accordingly, it is submitted that the Examiner's rejection under 35 USC 103(a) is improper, and must be withdrawn.

If any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this response, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an

extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 19-5113.

Respectfully submitted,

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